



## OFFICE OF THE GOVERNOR

P.O. BOX 83720

BOISE 83720-0034

**PHILIP E. BATT**  
GOVERNOR

(208) 334-2100

December 1, 1997

RECEIVED BY  
AND WILDLIFE SERVICE  
GRIZZLY BEAR RECOVERY  
COORDINATORS OFFICE

DEC 01 1997

Dr. Christopher Servheen,  
Grizzly Bear Recovery Coordinator  
US Fish and Wildlife Service  
Missoula, MT 59806

Dear Dr. Servheen:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Grizzly Bear Recovery in the Bitterroot Ecosystem.

The citizens of Idaho, statewide elected officials, our Legislature, and the members of our Congressional Delegation are all opposed to the reintroduction of grizzly bears. Despite campaigns by the proponents of grizzly bear reintroduction to arouse public support, Idahoans contacting the offices of the Governor and the Attorney General oppose this scheme by a margin of more than 20 to 1.

In light of the facts that: 1.) The Endangered Species Act does not require any reintroduction, making this an optional program on the part of the United States Fish and Wildlife Service; 2.) The service has not presented any scientific data that demonstrates that reintroduction of grizzly bears in Idaho is necessary for the recovery and survival of the grizzly bear in the lower forty-eight states; 3.) Overwhelming opposition from the state and citizens of Idaho; and 4.) Serious violations of the National Environmental Policy Act.

We therefore request that the United States Fish and Wildlife Service immediately withdraw the Draft Environmental Impact Statement for the Recovery of Grizzly Bear in the Bitterroot Ecosystem.

Very truly yours,

Handwritten signature of Philip E. Batt in cursive script.

Philip E. Batt  
Governor

Handwritten signature of Alan G. Lance in cursive script.

Alan G. Lance  
Attorney General

These comments on the Grizzly Bear Recovery in the Bitterroot Ecosystem Draft Environmental Impact Statement (DEIS) are presented jointly by Philip E. Batt, in his capacity as Governor of the State of Idaho, and Alan G. Lance, in his capacity as Attorney General for the State of Idaho. On October 2, 1997, Attorney General Lance presented testimony at the scheduled public hearing on the DEIS in Lewiston, Idaho. Attorney General Lance submitted a transcript of his oral comments to the hearing officer. This oral testimony should be considered part of Attorney General Lance's comments on the DEIS.

The fundamental problem with the DEIS is that it does not satisfy NEPA's most fundamental requirement: to fully disclose possible environmental impacts to both decision makers and the public so they can make reasoned decisions based on good information. Rather than serve as a forum to disclose and analyze information, the DEIS appears designed to sell the merits of the preferred alternative to the public. The overall effect of this effort to persuade, rather than inform, is that it is impossible to understand the likely environmental impacts of grizzly bear reintroduction.

### **Range of Alternatives**

The consideration of differing alternatives is the heart of a NEPA document. A federal agency's failure to consider a viable alternative in an environmental impact statement (EIS) may render that EIS invalid.

1 The DEIS only considers four alternatives. An important alternative that is missing from the DEIS is the analysis of experimental non-essential introduction of grizzly bears into the Bitterroot Ecosystem (BE) under the direct management of the United States Fish and Wildlife Service (USFWS). This management alternative is the typical method for the reintroduction of a species. Obviously, the USFWS considers direct management of non-essential experimental species to be a viable option since it used this approach to manage wolf reintroduction.

2 In a July 22, 1997, letter from the USFWS to region I of the United States Forest Service, Acting Regional Director Elliot N. Sutta explains that the establishment of the Citizen Management Committee (CMC) "to manage grizzly bears is an innovative approach that would provide greater flexibility than ever before allowed under the Endangered Species Act." This sweeping statement can neither be proved or disproved by reading the DEIS because the CMC alternative is not compared to traditional section 10(j) reintroduction directly managed by the USFWS. The DEIS does not explain how the CMC will have "greater flexibility" than the USFWS when the governing statute, the Endangered Species Act, establishes the same standards for both the CMC and the USFWS. The DEIS does not explain what management options will be available to the CMC that would be unavailable to the USFWS. Finally, the DEIS does not explain why the USFWS cannot be as flexible as the CMC.

3

All of these considerations should have been incorporated into the DEIS by evaluating experimental non-essential reintroduction of grizzly bears managed by the USFWS as a separate alternative. Since this separate evaluation is not included in the DEIS, both the public and decision makers have no way to evaluate the merits of the CMC against a meaningful baseline. Since the DEIS fails to satisfy this fundamental purpose of NEPA, it should be withdrawn.

### **Need For The Action**

The “Need for the Action” section on pages 1-4 and 1-5 should explicitly state that USFWS is not legally required to reintroduce grizzly bears in the BE. There is considerable confusion among constituent groups regarding whether introduction of an experimental non-essential species is a mandatory act. By creating the impression that USFWS is legally required to reintroduce grizzly bears into the BE, the DEIS offers the public a false choice. The public is forced to decide between the introduction of grizzly bears managed by the CMC and the introduction of grizzly bears directly managed by the USFWS.

As the phrases “experimental” and “non-essential” imply, the USFWS is in no way legally required to reintroduce grizzly bears into Idaho. The operative language of section 10(j) states:

The Secretary [of the Interior] may authorize the release . . . of any population of an endangered species or a threatened species outside the current range of such species if the Secretary determines that such release will further the conservation of such species.

16 U.S.C. § 1539(j)(2)(A) (emphasis added). In reality, the choice that the DEIS should be presenting to the public is a choice between the reintroduction of grizzly bears and no reintroduction. The USFWS’ election to present a false choice to the public in the DEIS does not honor NEPA’s fundamental requirement to provide accurate information to the public and decision makers. Therefore, the DEIS should be withdrawn.

### **Exemption from the Federal Advisory Committee Act**

4

On page 2-8 of the DEIS, USFWS states that the Citizens Management Committee (CMC) “would be exempt from FACA (Federal Advisory Committee Act) because they [sic] would be implementing an approved recovery plan.” The DEIS does not cite any legal authority for this proposition. Only duly appointed recovery teams are exempt from the requirements of FACA. 16 U.S.C. § 1533(f)(2). The potential members of the CMC had nothing to do with the development of the grizzly bear recovery plan.

Furthermore, the CMC is not merely implementing the recovery plan because CMC management has been presented to the public as an opportunity for “greater flexibility than ever before allowed under the Endangered Species Act.” If the CMC’s only intent is to implement the recovery plan, then there will be no more flexibility in its actions than there would be if the USFWS were directly managing grizzly bears pursuant to the recovery plan. As a matter of simple logic, it is impossible to both manage with “greater flexibility than ever before allowed” and manage pursuant to an already developed recovery plan. The DEIS is flawed for leading the public to believe that the CMC will have management options available to it that go beyond the contents of the recovery plan, while also asserting an exemption from FACA that is limited to the development and implementation of recovery plans.

### Operation of the CMC

The organization and operation of the CMC is the centerpiece of the entire preferred alternative. However, amazingly enough, there is almost no discussion in the DEIS of the actions that the CMC is likely to take. Page 2-8 of the DEIS summarizes the function of the CMC. However, that summary is limited to the statement that the “CMC would develop management plans and policies, as necessary for management of grizzly bears in the Experimental Area.”

5 | Presumably, these yet-to-be developed “management plans” would be subject to additional NEPA analysis. Additional NEPA coverage would be required because the “management plans” cannot be tiered to the analysis of the DEIS. Indeed, it is difficult to understand why the USFWS does not include some discussion of the likely contents of subsequent management plans. The whole purpose of the DEIS is to inform the public and decision makers concerning actions that the CMC is likely to take.

6 | This concern has become more acute because the State of Idaho has learned that the USFWS is strongly considering altering the operations of the CMC in response to a proposal from the State of Montana. **See letter from Governor Marc Racicot to Christopher Servheen dated September 30, 1997 (attached).** The public has not had an opportunity to comment on this major revision. Presumably, many who expressed support for the preferred alternative during the comment period would not support the change proposed by the State of Montana. USFWS is not fulfilling its NEPA obligations by circulating one proposal, only to alter it, with no opportunity for public input, in an effort to build support for the preferred alternative. Since the DEIS does not satisfy the primary purposes of NEPA, it should be withdrawn.

## Land Use Restrictions

A primary concern of Idahoans is that current land use activities will be curtailed due to the reintroduction of grizzly bears in the BE. The DEIS attempts to respond to these concerns in general terms by characterizing land use restrictions as either minimal or unlikely. For example, the DEIS reaches the general conclusion that the introduction “of a nonessential experimental population of grizzly bears into the BE is not expected to impact existing land uses, including timber harvest and minerals extraction activities.” DEIS at 4-11. However, the DEIS reserves significant power for the CMC to curtail current land use practices. This reservation of power occurs without sufficient discussion of the likely decisions that may occur. Areas in the DEIS where power is reserved to negatively impact existing land uses are highlighted below. Some are revisited in the section of these comments dealing with economic analysis.

1. Page 2-13 of the DEIS states that it “is anticipated that laws and regulations, in effect at the time of issuance of the special rule, and governing land management activities would promote grizzly bear recovery.” Currently, the laws and regulations “governing land management activities” promote multiple use of public land, not just grizzly bear recovery. Therefore, in order for USFWS to achieve what is “anticipated” in the DEIS, current laws and regulations governing land management would have to be changed. The environmental and economic impacts of these “anticipated” changes are not addressed in the DEIS. Since the DEIS does not contain sufficient analysis of the environmental and economic impacts of these “anticipated” changes, it is flawed.
2. Pages 2-13 and 2-14 of the DEIS contain the following discussion of the relationship between the CMC and existing forest plans:

If this alternative is implemented, the proposed special rule would govern recommended changes to Forest Plan standards and guidelines as per direction of the CMC . . . . Changes to the Forest Plan should have to be reviewed by the CMC and agency biologists to determine potential impacts.

It is impossible to both change existing forest plans and also avoid altering “existing land management activities.” Since the DEIS does not include sufficient environmental or economic analysis of changing existing forest plans, the DEIS is flawed and should be withdrawn.

3. Page 2-14 of the DEIS states that the CMC’s “management activities” would “try to preempt livestock problems.” In addition, the CMC “would try to make all [livestock] uses compatible with [grizzly bear] recovery.” Presumably, the CMC would change

those existing “livestock problems” that are not “compatible with recovery.” It is impossible to both eradicate incompatible livestock problems and also avoid altering “existing land management activities.” Since the DEIS does not include sufficient environmental or economic analysis of eradicating incompatible “livestock problems,” the DEIS is flawed and should be withdrawn.

4. Page 2-14 of the DEIS contains the following discussion of potential impacts to road and trail access that may be created by grizzly bear introduction:

Some roads that are open and presently exceeding densities recommended for fish and wildlife management purposes outside the wilderness could also be closed, but not solely for the grizzly bear. Such closures would also benefit big game and fisheries. Recommendations would be forthcoming from the CMC on any future recreational restrictions.

9 The DEIS describes the CMC’s authority as being limited to grizzly bear management. The USFWS has not provided any authority under which the CMC may develop recommendations for road closures for purposes other than grizzly bear management. In addition, page 4-18 of the DEIS states that while “some area visitors may be inconvenienced due to occasional temporary trail closures, this inconvenience is unlikely to result in any appreciable loss of economic value.” There is no sufficient analysis in the DEIS to support the conclusion that trail closure will not result “in any appreciable loss of economic value.” Therefore, the DEIS is flawed and should be withdrawn.

- 10 5. The DEIS contains conflicting analysis concerning possible hunting restrictions that may be connected to grizzly bear introduction. On page 4-16, the DEIS initially states that “there are no proposed changes in hunting seasons.” On the same page, the DEIS states that “changes [in hunting seasons] could occur to address potential conflicts.” There is no sufficient environmental and economic analysis of hunting season restrictions in the DEIS. The DEIS is flawed for suggesting that the CMC can change hunting seasons without valid NEPA coverage for that potential management action. Therefore it should be withdrawn.

In sum, the DEIS completely fails to be forthcoming and candid with the public concerning the potential land use restrictions that could occur as a result of grizzly bear reintroduction. Since the primary purpose of the DEIS is to disclose these likely impacts, the DEIS is flawed and should be withdrawn.

## Economic Impacts

Generally speaking, the DEIS minimizes and downplays the economic impacts of grizzly bear reintroduction to logging, mining, guiding, hunting and other uses in the area. Moreover, any negative impacts are shown in an abstract sense, without applying the impact to the communities which will, in large measure, bear the brunt of impacts from the Grizzly Bear Recovery Plan (GBRP); the potential problems are, more or less, assigned away by appropriating their resolution to the CMC.

11 | A key failure of the DEIS is the lack of a detailed review of the industries which form the economic basis of local communities potentially impacted by the GBRP. Economic impacts are discussed in a vacuum, with no further discussion these impacts would have to Idaho communities. Never in the DEIS does the USFWS actually list employment by industry for the counties within the PAA -- it offers only statewide and large-region employment estimates from the Bureau of Economic Analysis ("BEA"), which distorts the true situation facing many communities within the Primary Analysis Area. These figures themselves are the dated 1992 BEA estimates; the 1994 estimates have been available since September of 1996 and 1995 estimates were released in September of this year.

The cost of each of the alternatives should be estimated, with the estimates including, but not being limited to: dollar cost to implement, revenues foregone or gained, jobs lost and gained, income foregone and gained, tax flows decreased or increased, and so forth. Since each alternative involves costs, revenues and tax flows that occur over time, estimates should be discounted to a present value to enable clear comparison among the alternatives. Changes in the employment level of "basic" industries such as timber, mining, manufacturing, and ranching not only impact other industries, but also change the tax dollar stream which supports local communities.

12 | Much importance in the EIS is given to the potential size of the recovery and analysis areas, implying that these large areas will be significant in minimizing grizzly-human conflict. However, it cannot be assumed the grizzly bear population will be equally distributed across the recovery area or the entire PAA. The grizzlies will likely colonize those areas which have abundant food resources: valleys which support vegetation and wildlife, and have substantial water resources. However, these areas also tend to be frequented by humans for purposes of transportation, residence, recreation, and commerce.

Also, care must be taken to keep a proper frame of reference for the areas of study. These areas are defined as:

Recovery Area: the area including and surrounding the BE in which the grizzly bears will be introduced. This area differs by alternative, with the recovery area sizes listed by alternative:

- #1: 5,785 square miles (BE, no ESA protection, Citizen Management Committee administration)
- #2: 5,500 square miles (BE, natural recovery, full ESA protection)
- #3: 0 square miles (non-recovery alternative)
- #4: 21,875 square miles (from National Forests outside Coeur d'Alene to the National Forests near Boise, full ESA protection, Scientific Committee administration)

Primary Analysis Area ("PAA"): The approximate 22,000 square mile area of the national forests ranging from northern Idaho to southwest Idaho, and into western Montana, surrounding the recovery area. An area where grizzly bears may colonize, but in which the management of them varies according to the selected GBRP alternative.

The EIS is often quite elaborate in its discussion of impacts (but not the economic consequences) to the recovery area, or the BE, but often the real area of interest for the reader is the overall PAA, as it is the minimum area impacted by the GBRP. In other cases, the impacted areas might be fairly narrowly focused; but the impact is described without such geographic reference. For example, the inability to access an area for mining and timber activity might have serious consequences for a specific area dependent upon those industries for its economic livelihood.

#### Forecast Direct Costs:

13 Direct costs include the cost of capture and transportation of grizzly bears to the BE and the monitoring and management by federal and state personnel over the course of the project. Overall, it seems the forecasts underestimate operations expenses and do not consider the impact of inflation, or real increases in the costs of goods and services which occur over time.

#### Alternative 1 (The Proposal):

On page 6-73 of the EIS, the cost of implementing the alternative is presented. The annual estimated monitoring and management cost of \$168,000 borne by the Idaho Department of Fish and Game ("IDFG"), Nez Perce Tribe, and the Montana Department of Fish, Wildlife, and Parks ("MDFWP") at the state level, is extremely low. Likewise, the five-year monitoring and management annual estimate of \$150,000 is too low. Of the \$168,000, \$100,000 is budgeted for salaries and benefits for state-level organizations. Today, \$100,000 would fund only two full-time positions over a year at a maximum. Far more manpower is required to adequately manage the project. A growing grizzly population would also increase the number



of people needed to implement the GBRP. Even one more full-time equivalent position (“FTE”) will add at least \$35,000 to \$50,000 annually to the expenses.

In addition, the \$10,000 per year for travel and supplies is budgeted for operations expenses is insufficient. By way of comparison, the second alternative, which indicates no action taken to restore the grizzly bear population, has an operations budget \$5,000 greater than that of the first alternative, which has an active involvement of US Fish and Wildlife Service personnel, as well as many other people from Idaho and Montana state agencies.

13 Importantly, these cost estimates do not (nor do any of the others included in the other alternatives) take into account the increasing cost of goods and services as a result of inflation. One can add an average of at least 3.0% across the period to calculate the impact of this factor on costs. Nor do the costs include a prediction of the cost of additional activity necessary to “manage” an increasing grizzly population of 280 or more bears. These estimates do not include the cost to the taxpayer of probable legal challenges. Overall, a reasonable cost estimate would consider expenses to run an additional \$50,000-\$100,000 per year over the life of the project, not taking into consideration the impact of inflation, or changes in management procedures as directed by the CMC.

#### Alternative 2:

With the “No Action” scenario, the total cost presented upon page 6-74 of the EIS is forecast to be only slightly lower per year (\$140,000) than the projected cost of Alternative 1. Under this alternative, it is not expected that grizzlies will reoccupy the BE, as they “do not move far to colonize distant, disjunct areas.” (EIS, p. 2-18) The direct costs as projected in the EIS are reasonable; but, like the other alternatives, it does not include any estimate of the impact of inflation on the cost of goods and services in the future.

#### Alternative 3:

Perhaps the most surprising estimate included among those given for the alternatives is that of this, the “No Recovery” alternative. The “minimum estimate” cost (over several years) is projected to be \$2,000,000, with \$400,000 spent by the U.S. Fish and Wildlife Service (“USFWS”) for salaries and benefits, \$100,000 for operations expenses (travel and supplies), and \$1,500,000 for “legislative, lobbying, and other efforts” to develop the legislation to adjust the Endangered Species Act (“ESA”) to accommodate this alternative, which would remove grizzly bears from the list of threatened and endangered species from the Rocky Mountain region of the U.S.

The USFWS does not indicate why the cost is so high for changing legislation; nor does it discuss whether or not the agency already has lobbyists and attorneys on staff. It would seem

that being involved with legislative bodies is a normal activity for the USFWS, and the costs associated with changing legislation for this issue would already be included within the agency's budget. It would seem that the DEIS is attempting to "high ball" the direct cost of the other considered alternatives in order to increase the appeal of the preferred alternative.

#### Alternative 4:

The projected cost of the fourth alternative is equal to the first alternative. The only difference is for the funding of a Scientific Committee, rather than a Citizen Management Committee, though the forecast expenses for each are equal at \$15,000 per year. Again, similar to the first alternative direct cost estimate, this estimate lacks consideration of the real change in the price of goods and services which occurs over time, nor does it include an appreciation of the replacement cost of supplies and equipment over the life of the project, and it probably underestimates the level of activity needed to actually manage the project.

#### Forecast Economic Impacts

The following elements are considered for potential economic impact by each of the grizzly bear recovery plan alternatives:

- Timber harvesting
- Minerals extraction
- Domestic livestock
- Human health and private property
- Public access and recreational use
- Value potential

A central element missing from the DEIS is a review of the employment and earnings by industry for the PAA, to give the reader an appreciation of the relative importance of the industries within the PAA. Without this information, the context within which economic impacts are projected is largely vacant, and decision-making based upon such circumstances will not reflect the economic realities which face the communities within the PAA.

#### Effects Upon the Natural Resource Industries

In the preferred alternative, resource extraction activities would continue without ESA Section 7 consultation, but they are reviewed by a Citizen Management Committee. The CMC is comprised of 15 individuals from within the PAA who serve six-year terms. Seven of the members are recommended to the Secretary of the Interior by the Governor of Idaho, five recommended by the Governor of Montana, and one by the Nez Perce tribe, and one member each represents the U.S. Department of Agriculture ("USDA") and USFWS. This group

continues to implement the GBRP until recovery goals are met, at which point management authority reverts back to the state wildlife agencies. Ultimately, the Secretary of the Interior makes the decisions as to who is on the CMC. The result is yet another level of bureaucracy added to the permitting process for people, communities, or companies who desire to undertake activities within the PAA. This situation could have a negative impact upon the economies of the communities in the grizzly bear recovery area.

Moreover, while the committee is selected to fulfill the following criteria, as set forth in the EIS:

The Committee is to consist of a cross-section of interests reflecting a balance of viewpoints, be selected for their diversity of knowledge in natural resource issues, and for their commitment to collaborative decision making. The Committee is to be selected from communities within and adjacent to the recovery and experimental population areas. (p. 6-116)

There is no guarantee this will result in balanced decision making which will consider the impact of the committee's decisions upon the communities within the PAA. On the contrary, the singular purpose guiding the committee is stated quite succinctly earlier within the same paragraph:

All decisions of the Committee must lead to recovery of the grizzly bear in the BE.

And, of particular concern is a recurring statement in the EIS, an instance of which may be found on page 2-14:

Mineral extraction would likely not be altered due to grizzly bear concerns in and by themselves. Recommendations would be made by the CMC to reduce potential impacts if the need arises.

With such a focus, it would seem that with committee decisions would favor the grizzly bears over human economic interests. Moreover, when faced with an issue involving potential negative impact (economic or otherwise), the EIS often leaves resolution completely up to the CMC. The process of how the CMC will make decisions in allocating resources within the PAA is never specified. While the USFWS considers the present road density guidelines observed in the Clearwater and Nez Perce National Forest Plans to be suitable for grizzly bear recovery, no mention is made of the other National Forests within the Grizzly Bear Primary Analysis Area (PAA). In some cases, logging and mining activities can use the current road network. However, to log or mine new areas, new road networks may be necessary. Not only

will new roads need to have approval from the national forest areas within which they are planned, but also they will need to be approved by the CMC. If roads are built to support these economic activities sometimes vital for communities in the PAA, there is also the challenge of keeping them open, now with the additional threat of closure from the CMC.

According to the USFWS, road and trail closures will be enacted for those areas which a threat to human life is posed, trail and road closures are said to be minimal in the Northern Continental Divide Ecosystem ("NCDE") which contains an estimated 516 bears, and in Glacier National Park. However, these areas are already established grizzly bear habitats, rather than areas within which the bears will be seeking to establish their living areas. Certainly, the bears can be reintroduced to the recovery area; but that is no guarantee this will be the area in which they will prefer to live.

15 The DEIS does not set out how the areas around the introductory area will be managed. This is being left to the CMC. Therefore, it may be reasonable to assume that roads necessary to foster economic activity in natural-resource industry-based communities within the PAA, may not get built, and that those built, or already in existence, will be closed from time to time, depending upon the needs of the grizzly bear population. There is no guarantee that the periods when these roads might be closed would be opportune for timber and mining companies, or other industries active in those areas. These concerns should not be left to the speculations of the public. They should be thoroughly studied in the DEIS. Since they are not, the DEIS is flawed and should be withdrawn.

• Human health and private property

The USFWS predicts that, with a fully recovered grizzly bear population, there will be less than one human injury per year and only one bear-caused human mortality every few decades, based upon the experiences within the Cabinet-Yaak ("CY") and Selkirk ("SE") ecosystems. Also, the USFWS predicts between zero and 118 "nuisance incidents" per year with the projected population of grizzly bears in the BE. Again, these are difficult statistics to predict, even having the experience of the YE and NCDE to draw upon for forecasting.

16 The impact of such incidents may, depending upon the publicity given by the media, or the reaction of the CMC in closing roads and trails (effectively shutting down use of an area), may depress certain tourist activity as well as other economic activity in the communities in the experimental population area. It is completely unacceptable for the USFWS to minimize the potential threats to public safety that may be caused by grizzly bears. Since the DEIS is not forthcoming with information re the likely effects of grizzly bear reintroduction, it should be withdrawn.

## • Value potential Methodology

In discussion of the alternatives, the USFWS advances the idea of “value potential,” or the economic value associated with having a recovered grizzly bear population in the area. This is called “passive use value” or “existence value.” As an initial matter, it is difficult to understand why the USFWS would adopt “passive use value as a method for evaluating the economic benefit of grizzly bears when the DEIS specifically excludes consideration of the spiritual and cultural value of grizzly bears from the DEIS. The USFWS used a survey to determine that the net economic value of having a grizzly bear population in the BE was worth between \$40.4 million and \$60.6 million a year. These are not actual dollars. These estimates represent what the respondents of the survey said they would donate, on an annual basis, to a trust fund to support grizzly bear reintroduction. Those not supporting grizzly bear reintroduction have their contributions subtracted from those who do support it. Then, the estimates were adjusted for actual willingness to actually pay, by scaling the stated contributions 28.6% of their amounts.

17 Of course, no such fund exists, nor is likely to exist, but dollar values are plugged into the EIS in many places as a real benefit. The \$40.4 to \$60.6 million fund advantage for the bear nationwide is described as a conservative estimate. It is surprising that a “feel-good” question asked of a few hundred people about helping grizzly bears financially with no need to actually pay did not generate billions of dollars annually to a mythical trust fund once the values were forced to approximate the entire country.

These are not monies which would flow into the local communities to help them diversify their economies (assuming that their locations and resources make economic diversification a practical goal for which to strive). Nor are these monies which would be provided to develop special facilities or transportation for the grizzly bears. “Value potential” is simply a tool, using dollars as its proxy, to determine the relative desire for a particular outcome. This \$40.4 to \$60.6 million annual impact will not exist and, if it did, it would not benefit the local economies. It appears that USFWS adopted this methodology to offset more economic impacts to local communities with large imaginary value potential benefits.

## BIOLOGICAL CONCERNS

### 1. Inadequate analysis of the Recovery Area.

18 The Special Rule (Appendix 13) identified the recovery area as consisting of approximately 5,875 square miles in the Selway-Bitterroot and Frank Church-River of No Return Wilderness areas. The Special Rule (last paragraph, page 6-116) states: “The recovery goal for the Bitterroot grizzly bear population would be consistent with the habitat available in the recovery area . . . .” The inference is that the recovery area is both necessary and sufficient

for a minimum acceptable population of grizzly bears, since bears inhabiting the area outside the designated recovery area could be eliminated if they caused problems, in accordance with the Special Rule. The DEIS must demonstrate that the recovery area is both necessary and sufficient for a minimum acceptable population of grizzly bears, based on scientific review of habitat and management data. However, nowhere on pages 2-15, 2-16, 3-15 and 3-16 (or elsewhere in the DEIS) is information presented to show that the recovery area, exclusively, is sufficient to sustain a minimum acceptable population of grizzly bears.

18 Instead, the DEIS states on pages 2-15 and 2-16 that “. . . forested lands within the recovery area, and adjacent public lands is approximately 15,000 square miles. Together these areas are of sufficient size to allow for grizzly bear recovery.” The DEIS fails to present data that lead to such a conclusion even for the expanded, 15,000 square mile area. Rather, the DEIS draws on data referring to habitat suitability only in the 5,500 square mile Bitterroot Grizzly Bear Evaluation Area which includes only northern portions of the recovery area (portions of the Selway-Bitterroot and Frank Church-River of No Return Wilderness north of the Salmon River); i.e., only one-third or less of an undefined 15,000 square mile area was evaluated relative to grizzly bear habitat suitability.

Further, no data on habitat suitability in those portions of the recovery area that lie in the south of the Salmon River in the Frank Church-River of No Return Wilderness is presented. The clear implication is that the identified 5,785 square mile recovery area may be insufficient to achieve grizzly bear population objectives, and as a result the expected necessary suitability of the area for recovery of grizzly bears is highly uncertain. This point is further strengthened by the fact that the recovery area excludes a large area north of the Lochas River evaluated by Davis and Butterfield (1991) as suitable grizzly bear habitat and considered by many as superior.

19 Further, it appears that the Proposed Action compromises requirements established by the Special Rule for establishment of a nonessential experimental population. The DEIS does not demonstrate that the recovery area can meet all conditions to assure that available habitats are necessary and sufficient to assure re-establishment of a grizzly bear population (as required by Special Rule); **it also fails to assess the impact of reintroduction efforts on the bears themselves, particularly relative to habitat suitability including sufficient food resources to ensure survival of a reintroduced population, and therefore may jeopardize individual grizzly bears and grizzly bear recovery efforts.** The uncertainty introduced by these considerations precludes any meaningful assessment of environmental consequences of the Proposed Action, and no reasoned distinction among alternatives or environmental consequences appears possible. These factors lead to the conclusion that the DEIS, and the Proposed Action in particular, are fundamentally and fatally flawed. Biological data that would sufficient to demonstrate the suitability of the recovery area to meet objectives is not presented, and because of the resultant impacts on the grizzly bear population to be established

is not presented, and because of the resultant uncertainty, any grizzlies reintroduced to this area would be placed at high risk and the interest of grizzly bear recovery would be uncertain at best.

Prior to the adoption of a Record of Decision, an adequate biological assessment of the proposed recovery area must be completed and subjected to peer review, and, further, that an objective analysis of the environmental consequences of the proposed action based on this revised assessment must be presented. Because of these flaws, the USFWS should withdraw this DEIS.

2. Inadequate analysis of threats to other listed species.

20 No consideration is provided in the DEIS to potential conflicts with salmon and steelhead recovery programs also being conducted within the area affected by the Proposed Action. Even though the risks of reintroduced grizzly bears to listed salmon and steelhead may be low, some risk would exist. In light of National Marine Fisheries Service (NMFS) decisions to issue “no incidental take” directives to many land management and land use projects and proposals affecting recovery area and nearby land, it can be presumed that NMFS’ ‘zero risk’ approach to listed salmon and steelhead must be taken seriously. The DEIS’ failure to include analysis that is consistent with NMFS’ policy renders the document flawed. Therefore, the DEIS should be withdrawn.

3. The Preferred Alternative Would Not Include Sufficient Funding For Proper Biological Analysis.

21 The preferred alternative may result in actions that financially obligate the State of Idaho without a commitment to provision of funds necessary to finance those actions. This concern is based on recent (and ongoing) experience with wolf reintroduction into Idaho and with other listed species.

4. The DEIS provides inadequate analysis of possible impacts to source populations of grizzly bears.

22 It is inappropriate that grizzly bears moved from another grizzly bear recovery area (i.e., the Northern Continental Divide or Yellowstone Ecosystems) should be counted as “mortalities” against the recovery of grizzly bears in those ecosystems. If such bears are surplus to population recovery objectives, they should not be counted as mortalities against recovery; if they are not surplus to recovery needs, they should not be subjected to the risks of translocation.

## CONCLUSION

23 The State of Idaho is opposed to the reintroduction of grizzly bears. Despite campaigns by the proponents of grizzly bear reintroduction to arouse public support for the experiment, those contacting the offices of the governor and the attorney general oppose the reintroduction of grizzly bears by a margin of 20 to 1. The series of public hearings held around the State of Idaho yielded similar results.

The issue before the Fish and Wildlife Service is simple: the service should not proceed with an “experimental” and “non-essential” action when the people it will affect are opposed to it. Anyone with any regard for the sovereignty of states in our federal system would go no further. Only those with no regard for the ability of states to chart their own futures would force an optional federal program on the people of Idaho against their will.

q:\users\mmckeown\misc\grizbear\comments.doc